

**Information Sharing
Q & A
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1. Why is information sharing important?

Information sharing is key to the Government's goal of delivering better, more efficient public services that are coordinated around the needs of the individual. It is essential to enable early intervention and preventative work, for safeguarding and promoting welfare and for wider public protection. Information sharing is a vital element in improving outcomes for all.

In his recent report by *The Protection of Children in England: A Progress Report* (2009), Lord Laming emphasises the vital role of information sharing in keeping children safe.

As local areas move towards partnership working and integrated services, professional and confident sharing of information is becoming more important to delivering the benefits of these new arrangements.

2. Which Government department leads on information sharing?

DCSF has responsibility for promoting improvements in information sharing practice as part of the Every Child Matters programme. The scope of the DCSF work is limited to situations where practitioners have to use their professional judgement and experience to make decisions on a case-by-case basis, as to whether and what personal information they should share with other practitioners in order to meet the needs of a person or family. All references to information sharing in this document refer to the case-by-case information sharing.

DCSF does not have responsibility for bulk and/or pre-planned sharing of personal information between organisations or systems, where the information to be shared and who it will be shared with can be fully predicted in advance.

DCSF led the development of the first cross-government information sharing guidance for practitioners working with children and young people in 2006. In 2008, DCSF worked in partnership with CLG to update this and developed the latest version that is applicable to practitioners working with adults and families, as well as those working with children and young people.

3. Which Government department leads on bulk or pre-planned information sharing?

Each department is responsible for their own information sharing and data protection policy that includes bulk or pre-planned sharing of personal information.

Any sharing of personal information (both case-by-case and bulk or pre-planned sharing) is subject to the Data Protection Act 1998 (DPA). The Information Commissioner regulates and enforces compliance with the DPA.

4. What do children, young people and families think about information sharing?

It is important to maintain a balance between the need to retain the trusted relationship between practitioner and individuals and the need to share information to benefit and improve their life chances. Consultation and research has indicated that children and young people feel that it is ok to pass information on about them if they can be sure that it would result in getting help that would be of benefit to them. They want to be fully involved and informed throughout.

5. Why is there a need for guidance on information sharing?

Many practitioners recognise the importance of information sharing and there is much good practice. However, in some situations they feel constrained from sharing information by uncertainty about when they can do lawfully. This is especially in early intervention and preventative work where information sharing decisions may be less clear than in safeguarding or child protection situations.

The Government understands that it is important that people remain confident that their personal information is kept safe and secure and that practitioners maintain the privacy rights of the individual whilst sharing information to deliver better services.

It is important that practitioners understand when, why and how they should share information so that they can do so confidently and appropriately as part of their day-to-day practice.

For those who have to make decisions about information sharing on a case-by-case basis, the information sharing guidance and associated materials aim to support good practice in information sharing by offering clarity on when and how information can be shared legally and professionally, in order to achieve improved outcomes.

6. What are the implications of the Data Protection Act 1998?

The Data Protection Act 1998 is not a barrier to sharing information but provides a framework to ensure that personal information is shared appropriately.

7. What are the key factors to consider when deciding whether to share or not to share information?

The decision to share or not to share information must always be based on professional judgement about the safety and well-being of the person, in accordance with legal, ethical and professional obligations, supported by the *HM Government Information Sharing: Guidance for practitioners and managers* (2008) and informed by training and experience.

Obtaining informed and explicit consent for information sharing is best practice. Ideally, consent should be obtained at the start of the involvement as part of working with the individual or family to agree what support is required.

In early intervention and preventative work, the consent of the child, young person or family will normally be required for the lawful sharing of information. Helping them to understand why it would be beneficial to share relevant information with other practitioners and the implications of giving or not giving their consent to this, should be an integral part of working with them to identify their strengths and needs and agreeing how best to meet these needs.

Where consent cannot be obtained or is refused, or where seeking it is inappropriate or unsafe, then the question of whether there is a sufficient public interest must be judged by the practitioner on the facts of each case.

The guidance outlines seven 'golden rules' for information sharing and provides further information in the form of seven key questions about information sharing to inform decision-making.

8. What does “informed and explicit consent” mean?

For consent to be “informed”, the person giving the consent must fully understand what they are consenting to and the implications of giving or withholding this consent.

To be “explicit”, the consent must specify exactly what it applies to and when it does and does not apply.

Informed and explicit consent for sharing personal information can be obtained orally or in writing. Written consent is preferable since it reduces the scope for subsequent dispute. In either case, you should ensure that the decision regarding consent is recorded.

9. When can you share information without consent?

There are some circumstances in which sharing confidential information without consent will normally be justified in the public interest. These are:

- when there is evidence or reasonable cause to believe that a child is suffering, or is at risk of suffering, significant harm; or
- when there is evidence or reasonable cause to believe that an adult is suffering, or is at risk of suffering, serious harm; or
- to prevent, detect or prosecute a serious crime.

10. Why was the existing cross-Government guidance updated?

The existing cross-Government guidance was first published in April 2006 and was widely endorsed by a range of professional bodies. This guidance was updated to reflect current policy and extended to cover all practitioners, including those working with adults and families, as well as those working with children and young people.

11. What is the purpose of the information sharing guidance?

The aim of the information sharing guidance and associated materials is to support good practice in information sharing by offering clarity on when and how information can be shared legally and professionally, in order to achieve improved outcomes. This guidance will be especially useful to support early intervention and preventative work where decisions about information sharing may be less clear than in safeguarding or child protection situations.

12. How has the revised guidance been developed and what does it include?

The development of the cross-Government guidance has been led by the DCSF in partnership with the Department for Communities and Local Government (CLG) and in consultation with a range of practitioners, national organisations and representative bodies. It is based on and supersedes the HM Government guidance, first published in April 2006.

The revised HM Government information sharing guidance consists of a package of materials which includes:

- *Information Sharing: Guidance for practitioners and managers*
- *Information Sharing: Pocket guide* containing a summary of the key decision making considerations from *Information Sharing: Guidance for practitioners and managers*;

- *Information Sharing: Quick reference guide* which is a credit card sized tool containing the seven golden rules and the flowchart of key questions for information sharing;
- *Information Sharing: Case examples* which illustrate best practice in information sharing situations;
- *Information Sharing: Further guidance on legal issues* which is a summary of the laws affecting information sharing;
- *Information Sharing: Introductory training course* that can be accessed via CD-Rom;
- *Information Sharing: Training materials* available for local agency and multi-agency training, and for use by training providers;
- *Information Sharing: Posters* containing the seven golden rules and the flowchart of key questions for information sharing;
- *Information Sharing: Endorsements and statements* giving details of which organisations have formally endorsed the guidance and what they said; and
- *Information Sharing: How To guides* that provide advice and examples for specific information sharing processes: seeking consent, judging capacity to consent, recording decisions and sharing information securely.
- *Embedding information sharing toolkit* provides a high high-level view of how organisations can address the key barriers and levers for effective information sharing.

13. Why does the Department of Health (or OGD) logo not appear on the guidance / When will DH endorse the guidance and add its logo?

The information sharing guidance is a cross-government publication. DCSF and CLG led the development of the updated guidance, however other government departments, such as DH, were heavily involved in the development of both this version and the one published in 2006. The HM Government branding indicates that the document was approved for publication by a Cabinet committee with representatives from 14 Government departments, including DH. The HM Government logo is displayed rather than the individual departmental logos.

14. Who is the guidance for?

This information sharing guidance is for front-line practitioners who have to make decisions about sharing personal information on a case-by-case basis whether they are:

- providing services to children, young people, adults and/or families; and
- working in the public, private or voluntary sectors; and
- working as an employee, a contractor or a volunteer.

This includes practitioners working in health, education, schools, social care, youth work, early years, family support, offending and criminal justice, police, advisory and support services, culture and leisure.

The guidance is also for managers and advisors who support these practitioners in their decision making and for others with responsibility for information governance, including those working within Children's Trust arrangements:

“Every Children’s Trust should assure themselves that partners consistently apply the Information Sharing Guidance published by the Department for Children, Schools and Families and the Department for Communities and Local Government to protect children.” The Protection of Children in England: A Progress Report, Lord Laming (Crown Copyright 2009)

15. What does it mean to “consistently apply the Information Sharing Guidance” as recommended in the Laming report?

If an organisation is consistently applying the Information Sharing Guidance you could expect to find evidence that:

- all practitioners are aware of, and have access to, the information sharing guidance and training and are confident in making decisions about information sharing; and
- the organisational and cultural aspects that are required to embed information sharing have been, or are being addressed (as described in the *Embedding information sharing toolkit*).

16. How should I be supported by my organisation to share information?

Practitioners need to understand their organisation’s position and commitment to information sharing and to have confidence in the continued support of their organisation where they have used their professional judgement and shared information professionally.

Employers should aim to establish an effective information sharing governance framework and a supportive environment for information sharing. An information governance framework must always recognise the importance of professional judgement in information sharing at the front-line and should focus on how to improve practice in information sharing within and between agencies. These should be communicated to the front-line so that practitioners have confidence in their organisation’s commitment and support for professional information sharing.

Organisational policies and processes need to support good practice in information sharing. Commitment needs to be across the board.

17. What is the role of the Children’s Trust Board?

The Children's Trust Board has an important role in supporting and promoting the sharing of information by services which affect children, young people or their families. Boards should support activities designed to build the confidence of, and empower, practitioners to use their professional judgement in decisions related to children's well-being, and to foster trust and professional understanding between services. For example, Children's Trust Boards could take the lead in developing information sharing governance frameworks that would establish common policies and standards across all organisations as part of their work to develop the Children and Young People's Plan.

18. Does the guidance apply to practitioners across the whole of the UK?

The HM Government information sharing guidance covers England. The guidance offers clarity on how to share information professionally and legally including key considerations of the requirements of the Data Protection Act and the Human Rights Act, both of which are UK wide. As such, the principles expressed in the guidance could be considered to be applicable to the devolved administrations of Wales, Scotland and Northern Ireland. However it is for devolved Governments to decide what guidance they want to develop or use.

We are speaking to the devolved administrations about the guidance for practitioners in England and how that aligns with their materials.

19. Does the guidance apply to all instances of information sharing?

No. This guidance focuses on supporting front-line practitioners who have to make case-by-case decisions about sharing personal information, it does not provide any detailed guidance for staff in agencies or government departments whose information sharing practice is governed by statute and specific policies or agreements.

It also does not deal in detail with arrangements for bulk or pre-agreed sharing of personal information between IT systems or organisations other than to explain their role in effective information governance.

20. At what age can a child give consent to information sharing?

All people aged 16 or over are presumed, in law, to have capacity to give or withhold their consent to sharing of confidential information, unless there is evidence to the contrary. However, a child or young person who has capacity to understand and make their own decisions, may give (or refuse) consent to sharing. Children aged 12 or over may generally be expected to have sufficient understanding. Younger children may also have sufficient understanding. The government guidance on information sharing (*Information Sharing Guidance for practitioners and managers*) clearly states that age is only one factor in considering a person's capacity to understand and give consent and includes the key criteria that a practitioner should consider, such as understanding and maturity.

21. How does the guidance relate to my own organisations policies and procedures on information sharing?

Individual agencies may have developed specific guidelines and processes for sharing information. Practitioners will need to use the guidance in conjunction with their agency's policies and procedures and where applicable, their professional code.

22. What is an Information Sharing Protocol?

An Information Sharing Protocol (ISP) is a signed agreement between two or more organisations or bodies, in relation to specified information sharing activity and/or arrangements for the routine of bulk sharing of personal information.

An ISP relates to a specific information sharing activity and explains the terms under which both (or all) organisations have agreed to share information and the practical steps that need to be taken to ensure compliance with those terms.

23. Is it necessary to have an Information Sharing Protocol to share information with another practitioner?

No. Information Sharing Protocols (ISP) are not a legal requirement and are not required before front-line practitioners can share personal information. By itself, the lack of an ISP must never be a reason for not sharing information that could help a practitioner deliver services. See also the quote from the ICO below.

24. Does an Information Sharing Protocol allow practitioners to share information or clarify what they can and cannot share?

No. An Information Sharing Protocol does not confer any legal power or permission to share information. Furthermore, the Data Protection Act makes it clear that information to be shared must be "adequate, relevant and not

excessive in relation to the purpose". Many practitioners have to make case-by-case decisions, based on their professional judgement, about whether and what it is appropriate to share. An Information Sharing Protocol could not be expected to cover every eventuality that a practitioner may encounter. See also the quote from the Information Commissioner's Office (ICO) below.

25. What is the Information Commissioner's Office (ICO) view of Information Sharing Protocols?

This quote from the information sharing guidance explains the ICO view of Information Sharing Protocols.

"An Information Sharing Protocol is a useful tool with which to manage large scale, regular information sharing. It creates a routine for what will be shared, when and with whom and provides a framework in which this regular sharing can take place with little or no intervention by practitioners.

"An Information Sharing Protocol is not a useful tool for managing ad hoc information sharing which all practitioners find necessary. Most importantly it is not intended to be a substitute for the professional judgement which an experienced practitioner will use in those cases and should not be used to replace that judgement" (Information Commissioners Office)

26. Where can NHS and social care practitioners go to get advice on information sharing?

NHS and social care practitioners can get advice in information sharing from:

- the cross-government information sharing guidance
- guidance from DH, NHS and their professional bodies
- their managers
- Caldicott Guardians